

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 13, 2006

**D048442      In re Alondra K., a Juvenile**

The juvenile court judgment is affirmed as modified by this opinion. McDonald, J.;  
We Concur: Nares, Acting P.J., O'Rourke, J.

**D048200      In re Terrance B., a Juvenile**

The order is affirmed. CERTIFIED FOR PUBLICATION. Nares, Acting P.J.;  
We Concur: McIntyre, J., Irion, J.

**D048652      Nickolas F. v. The Superior Court of San Diego County/San Diego County  
Health and Human Services Agency**

It is ordered that the opinion filed herein on October 25, 2006, is modified. There is no change  
in the judgment.

**D047006      Jay v. Franchise Tax Board**

The request to be relieved from the 15-day limit of California Rules of Court, rule 25(b) is  
granted. The petition for rehearing is denied.

**D049113      In re Lorena Z., a Juvenile**

The unopposed request for judicial notice and motion to dismiss the appeal as moot, filed by the  
child's appellate counsel on November 2, 2006, have been read and considered by Associate  
Justices McIntyre, Nares, and McDonald. The request for judicial notice is granted. The Court  
take judicial notice of the minute order attached to the request for judicial notice. The Court  
grants the motion to dismiss the appeal as moot. The appeal is dismissed.

**D048663      In re Marriage of Garcia**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the  
remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear  
own costs on appeal.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate  
Justices Patricia Benke and James McIntyre

Clerk: D. Moore

**D046545      People v. Pender**

Cause called on merits. Russell S. Babcock, Esq. argued for appellant, Mercado. Gregory L.  
Cannon, Esq. argued for appellant, Pender. Laura Beatty, Certified Law Student argued for  
respondent. Mr. Babcock replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 13, 2006 (Continued)

**D047177      People v. Hubka**

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Theodore M. Cropley, Deputy Attorney General argued for respondent. Mr. Wallingford replied. Cause submitted.

**D048841      Forrest-Benavides v. Eaddy**

Cause called on merits. Martin Nebrida Buchanan, Esq. argued for appellant. Judith E. Klein, Esq. argued for respondent. Mr. Buchanan replied. Cause submitted.

**D036809      Gensler et al. v. Western National Funding, Inc.**

Cause called on merits. No appearance by Mr. Gensler. Scott R. Carpenter, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

Court recessed at 10:02 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Cynthia Aaron

**D047283      Maraziti v. Griffiths**

Cause called on merits. Robert Fielding Sinclair, Esq. argued for appellant. Michael Aaron Gardiner, Esq. argued for respondent. Mr. Sinclair replied. Cause submitted.

Court recessed at 10:31 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller

Clerk: D. Moore

**D046667      People v. Foster**

Cause called on merits. David J. Macher, Esq. argued for appellant. Pamela Ratner Sobeck, Deputy Attorney General argued for respondent. Mr. Macher replied. Cause submitted.

**D047881      Gelin v. Fisher Investments, Inc.**

Cause called on merits. Vincent David Slavens, Esq. argued for appellant. Scott L. Metzger, Esq. argued for respondent. Mr. Slavens replied. Cause submitted.

**D046086      Brown v. Brown**

Cause called on merits. Kathryn M. Brown, argued for appellant in pro per. Stephen Temko, Esq. argued for the minor. Edward I. Silverman, Esq. argued for respondent. Ms. Brown replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 13, 2006 (Continued)

Court recessed at 2:32 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

**D047231 Kelly v. Haag et al.**

Cause called on merits. Michael G. York, Esq. argued for appellant. Chris Findley, Esq. argued for respondent. Mr. York replied. Cause submitted.

Court recessed at 3:00 p.m. until Tuesday, November 14, 2006 at 9:00 a.m.

**D049062 Carmona et al. v. Mullen et al.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D048445 In re Nathaniel D., a Juvenile**

The respondent's petition for rehearing, request for augmentation of the record with evidence of subsequent events, and judicial notice, are denied. The evidence presented for this court's consideration creates factual disputes, the resolution of which is properly resolved in the trial court.

**D049455 Tania C. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency**

The attorney for Tania C. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed because there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 14, 2006

**D048772      In re Cynthia M. et al., a Juvenile**

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Nares, J.

**D047802      Citizens for Preservation of Coronado Beach v. City of Coronado**

The petition for rehearing is denied.

**D048509      In re Diana L., a Juvenile**

Judgment affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald  
Clerk: D. Moore

**D046882      People v. Jaime**

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Robert Foster, Deputy Attorney General argued for respondent. Cause submitted.

**D047579      In re Carlos E. on Habeas Corpus**

Matter called on merits. Carl Fabian, Esq. argued for appellant. Jennifer Neill, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

**D048025      Bursey v. San Diego Housing Commission**

Cause called on merits. Wanda Bursey, Esq. argued for appellant. Anna Roberta Salusky, Esq. argued for respondent. Ms. Bursey replied. Cause submitted.

Court recessed at 9:32 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. Moore

**D047947      Eden-Silverstein v. Eden**

Cause called on merits. Judith M. Copeland, Esq. argued for respondent. Gary Wayne Burger, Esq. argued for appellant. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 14, 2006 (Continued)

**D047865      California Energy Commission v. Applied Technologies USA, LLC**

Cause called on merits. Deborah M. Fletcher, Deputy Attorney General was present in oral argument for appellant, and submitted on the briefs. Michael Frank Bell, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

**D048064      Cruz v. Fagor America, Inc.**

Cause called on merits. Anthony D. Thompson, Esq. argued for appellant. Kathleen McCormick, Esq. argued for respondent. Cause submitted.

**D045303      Whitty et al. v. First Nationwide Mortgage Corporation**

Cause called on merits. Frank Witty, argued for appellant, in pro per. Dean Kirby, Esq. argued for respondent. Mr. Whitty replied. Cause submitted.

Court recessed at 2:52 p.m. until Wednesday, November 15, 2006 at 9:00 a.m.

**D048793      In re V.L., a Juvenile**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D049572      Jorge S. et al. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency**

The attorney for petitioner Jorge S. has notified the court that a petition for writ of mandate under California Rules of Court, rule 38.1 and 1436.5 will not be filed because there are no viable issues for writ review. The case as to Jorge S. is dismissed.

**D049271      Pekker v. The Superior Court of San Diego County/Mohacsi**

The petition and request are denied.

**D048852      People v. Halweriz**

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D047097      People v. Hernandez**

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D048827      In re Pedro N., a Juvenile**

The order is affirmed. Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D049337      In re Ruiz on Habeas Corpus**

The petition is denied because Ruiz has not shown that he has exhausted his administrative remedies.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 14, 2006 (Continued)

**D049255      In re Thomas on Habeas Corpus**

The petition is denied.

**D049319      In re Rodney on Habeas Corpus**

The petition is denied.

**D048723      In re E.T., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D045580      People v. Braun et al.**

The petition for rehearing is denied.

**D047872      Furgatch v. San Diego Unified Port District et al.**

The order denying attorney fees and costs is reversed. The matter is remanded and the trial court directed to permit Furgatch discovery relevant to the question of the catalytic effect of his lawsuits, i.e. whether Furgatch's lawsuit was a substantial factor or significant catalyst in the decision to terminate the agreement, and for a further hearing to determine whether Furgatch was a prevailing party in the case, including in the trial court's discretion an abbreviated evidentiary hearing. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: Nares, Acting P.J., McDonald, J.

**D045133      XXSYS Technologies, Inc. v. The State of California et al.**

The petition for rehearing is denied.

**D049755      Sommer v. Superior Court of San Diego County**

The petition is denied.

**D049768      Shannahan et al. v. Superior Court of San Diego County/Shannahan**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 15, 2006

**D047935      Galanti v. Cambridge Investments, LLC**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

**D047557      In re Abdulkadir A., a Juvenile**

The juvenile court's order is affirmed. Benke, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

**D047718      People v. Parker**

The order is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D049224      In re Castro on Habeas Corpus**

The petition is denied.

**D047608      People v. Blanco**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D048307      Smith v. Hance et al./Smith**

Upon written request filed by appellant Gregory D. Smith and appellant Steven L. Smith, the appeal is dismissed and the remittitur is ordered to issue immediately.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre  
Clerk: D. Moore

**D048046      Sander v. Sander**

Cause called on merits. Stephen Temko, Esq. argued for appellant. Sharon L. Kalemkarian, Esq. argued for respondent. Mr. Temko replied. Matter submitted.

**D048609      Atlantic Pacific Home Loans, Inc. v. Superior Court**

Matter called on merits. Susan Elizabeth Emrich, Esq. argued for petitioner. Vickie Turner, Esq. argued for real party in interest. Ms. Emrich replied. Matter submitted.

Court recessed at 9:51 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 15, 2006 (Continued)

**D048431      Goold v. Superior Court**

Matter called on merits. Gary Harrison, Esq. argued for petitioner. Patrick L. McCrary, Esq. argued for real party in interest. Mr. Harrison replied. Matter submitted.

Court recessed at 10:07 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Terry O'Rourke  
Clerk: D. Moore

**D047327      Young v. Scully et al.**

Cause called on merits. David Bruce Zlotnick, Esq. argued for appellant. Robert C. Baker, Esq. argued for respondent. Mr. Zlotnick replied. Cause submitted.

**D047261      City of San Diego Lifeguard Service v. Riley**

Cause called on merits. Bryan William Pease, Esq. argued for appellant. George F. Schaefer, Deputy City Attorney argued for respondent. Mr. Pease replied. Cause submitted.

**D047296      People v. Joiner, Jr.**

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. David Delgado-Rucci, Deputy Attorney General argued for respondent. Mr. Wallingford replied. Cause submitted.

Court recessed at 2:58 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

**D048235      An Independent Home Support Service, Inc. v. Superior Court**

Matter called on merits. Pedro Gustavo Ruiz, Esq. argued for real party in interest. David Anthony Gaston, Esq. argued for petitioner Matter submitted.

Court recessed at 3:34 p.m. until Thursday, November 16, 2006 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 16, 2006

**D047650      Day et al. v. Collingwood**

The order is reversed and the matter is remanded to the trial court for consideration of Collingwood's motion for sanctions, in accordance with the views expressed in this opinion. Collingwood is entitled to costs on appeal. CERTIFIED FOR PUBLICATION. Aaron, J., We Concur: McConnell, P.J., Irion, J.

**D049336      Smith v. Superior Court of San Diego County/Hance**

The petition is denied.

**D047579      Escamilla v. California Department of Corrections and Rehabilitation**

The order is modified to provide that it grants Escamilla's petition for writ of mandamus, rather than petition for writ of habeas corpus. As modified, the order is affirmed. Escamilla is entitled to costs on appeal. McDonald, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D047056      People v. Kochel**

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D047682      People v. Hernandez**

The judgment is affirmed. Huffman, Acting P.J.; I Concur: Irion, J.; I Concur in the Result: McDonald, J.

**D047758      Kelman et al. v. Kramer**

The order is affirmed. Kelman is awarded costs on appeal. McConnell, P.J.; We Concur: McDonald, J., Aaron, J.

**D047797      In re the Marriage of Bissell**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D049176      In re Eman P., a Juvenile**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 17(a)(1), 37.3(b)(5), and (37).4(a)(2). The appeal is dismissed.

**D049667      Heraver et al. v. Warner Springs Estates Homeowners Association et al.**

Because appellant did not timely pay the filing fee, the appeal is dismissed.

**D048967      Figiel v. Hyundai Motor America**

The appeal is dismissed and the remittitur is ordered to issue immediately. Appellant Hyundai Motor America is to recover its costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 16, 2006 (Continued)

Court convened at 9:00 a.m.

Present: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion  
Clerk: D. Moore

**D047665      Hendrick v. LaSala**

Cause called on merits. Marie A. Lasala, argued for appellant in pro per. Michael M. Hogan, Esq. argued for respondent. Ms. Lasala replied. Cause submitted.

**D047315      Bryan v. Bryan**

Cause called on merits. Jeffrey D. Bryan, argued for appellant in pro per. Gary Dale Jander, Esq. argued for respondent. Mr. Bryan replied. Cause submitted.

**D047599      Kimmins et al. v. Fagan & Fagan et al.**

Cause called on merits. Amelia McDermott, Esq. argued for appellant. David B. Sharp, Esq. argued for respondent. Ms. McDermott replied. Cause submitted.

Court recessed at 10:18 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D047433      Mims v. San Diego County Employees Retirement Association**

Cause called on merits. Phillip A. Mims, argued for appellant in pro per. Steven P. Rice, Esq. argued for respondent. Mr. Mims replied. Cause submitted.

Court recessed at 10:50 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

**D047116      Crockett et al. v. Miller et al.**

Cause called on merits. Daniel E. Olson, Esq. argued for appellant. Jon Vandegrift, Esq. argued for respondent. Mr. Olson replied. Cause submitted.

Court recessed at 11:07 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 16, 2006 (Continued)

**D044943      People v. Tuite**

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Lynne McGinnis, Esq. argued for respondent. Mr. Wallingford replied. Cause submitted.

Court recessed at 2:11 p.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D047345      Carboneau v. Salazar et al.**

Cause called on merits. Richard D. Ackerman, Esq. argued for appellant. Lee H. Roistacher, Esq. argued for respondent. Mr. Ackerman replied. Cause submitted.

Court recessed at 2:30 p.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D048305      In re Richard B., a Juvenile**

Cause called on merits. Richard Pfeiffer, Esq. argued for appellant, Frederick B. Paula Roach, Deputy County Counsel argued for respondent. Susan Bookout, Esq. argued for the minor. Mr. Pfeiffer replied. Cause submitted.

**D048416      In re Elena P., a Juvenile**

Cause called on merits. Joanne Willis Newton, Esq. argued for appellant, Lydia G. Gary Seiser, Deputy County Counsel argued for respondent. Suzanne Evans, Esq. argued for the minor. Ms. Newton replied. Michael D. Randall, Esq. replied for appellant, Teodora P. Cause submitted.

Court recessed at 3:11 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion

**D048924      Rita A. v. Superior Court**

Matter called on merits. Kathleen M. Mallinger, Esq. argued for appellant. Gary Seiser, Deputy County Counsel argued for respondent. Susan Bookout, Esq. argued for the minor. Ms. Mallinger replied. Mr. Seiser replied. Matter submitted.

Court recessed at 4:00 p.m. until Friday, November 17, 2006 at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 17, 2006

**D049220      IVAC Corporation et al. v. Workers' Compensation Appeals Board et al.**  
The petition is denied.

**D049339      Lanier v. Superior Court of Imperial County/Mills et al.**  
The petition is denied.

**D046922      People v. George**  
Affirmed. Haller, J.; We Concur: McConnell, P.J., Benke, J.

**D048752      In re Jennifer P. et al., Juveniles**  
The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D048841      In re Marriage of Forrest and Eaddy**  
The order denying the petition seeking Ashlee's return to Australia is reversed and the matter is remanded with directions to the superior court to issue a new order forthwith granting the petition and requiring Ashlee's immediate return to Australia. Forrest-Benavides is awarded her costs of appeal. In the interests of justice and based on the parties' stipulation, the clerk of this Court shall issue the remittitur forthwith. (Cal. Rules of Court, rule 26(c)(1). CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McConnell, P.J., Benke, J.

**D047577      People v. Duby**  
The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

**D047177      People v. Hubka**  
The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., McIntyre, J.

**D047267      People v. Dene**  
The judgment is affirmed. O'Rourke, J.; I Concur: McConnell, P.J.;  
I Concur in the Result: Huffman, J.

**D048843      People v. Upsher**  
Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding, and The Honorable Associate Justices Terry O'Rourke and Joan Irion  
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 17, 2006 (Continued)

**D047722      Martinez v. Autozone Stores, Inc.**

Cause called on merits. Charles Moore, Esq. argued for appellant. Gregg Sindici, Esq. argued for respondent. Cause submitted.

Court recessed at 9:22 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D047249      People v. Flores**

Cause called on merits. Marianne Harguindeguy, Esq. argued for appellant. Robin Derman, Deputy Attorney General argued for respondent. Ms. Harguindeguy replied. Cause submitted.

Court recessed at 9:42 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion

**D047380      Miramar Truck and Auto Center, Inc. v. General Motors Corporation**

Cause called on merits. Robert P. Otilie, Esq. argued for appellant. Gregory Richard Oxford, Esq. argued for respondent, General Motors Corporation. Ken Sobel, Esq. argued for respondent, Miramar Pontiac & GMC Truck, Inc., and etc. Cause to be submitted at a later date.

Court recessed at 10:33 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron  
Clerk: D. Moore

**D046547      People v. Otis**

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Stephen Matcha, Certified Law Student argued for respondent. Mr. Babcock replied. Cause submitted.

Court recessed at 2:00 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

**D046480      Cajon Valley Union School District v. Meram et al.**

Cause called on merits. Donald W. Detisch, Esq. argued for appellant. Charles Campbell, Esq. argued for respondent. Mr. Detisch replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 17, 2006 (Continued)

Court recessed at 2:27 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

**D048468      Sony Electronics, Inc. v. Superior Court**

Matter called on merits. Luanne Sacks, Esq. argued for petitioner. Emily Maxwell, Esq. was present in oral argument for petitioner, but did not argue. James Shaw, Esq. argued for real party in interest. Ms. Sacks replied. Matter submitted.

Court recessed at 3:04 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

**D048056      Department of Fair Employment and Housing v. MDG, Inc.**

Cause called on merits. Nancy A. Beninati, Deputy Attorney General argued for respondent. John B. Barriage, Esq. argued for appellant. Cause submitted.

Court adjourned at 3:20 p.m.

**D048497      People v. William Peter New**

3:30 p.m. Court convenes

Associate Justice Gilbert Nares designated hearing officer and referee in this matter.

Deputy Clerk: C. Tunnell

Deputy Clerk: D. Moore, recording

CHP Officer: Art Athens

Appointed Counsel Rebecca P. Jones present with Ja' Nal Carter, CSR # 12813.

Jill Amanda Matuk, Supervising Deputy Clerk, Court of Appeal

Laura Runyon, Court Reporter Supervisor - Superior Court

In re the Matter of Ja' Nal Carter, CSR # 12813, Official Reporter, on Order to Show Cause why sanctions should not be imposed pursuant to rule 46.5 of the California Rules of Court for failure to prepare and file reporter's transcripts in People v. New, D048497.

3:30 p.m. The Court asks the parties to state their appearance.

Attorney Rebecca P. Jones appears with Court Reporter Ja' Nal Carter.

The Court states for the record that the courtroom clerk is present. The Court asks Ms. Matuk if the record has been certified.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

November 17, 2006 (Continued)

3:31 p.m. Ms. Matuk states that the record in People v. William Peter New has been certified.

The record consists of 28 volumes:

3 Clerk's transcripts

4 Preliminary Hearing transcripts

18 Court Reporter's transcripts

1 Court Reporter's Master Index

1 Confidential envelope

1 Court Reporter's affidavit

3:32 p.m. The Court asks if there is a representative present from Superior Court.

Laura Runyon, Court Reporter Supervisor appears for Superior Court.

The Court asks Ms. Runyon what efforts were needed to complete this record and how much Superior Court staff and resources were necessary.

3:33 p.m. Ms. Runyon states Superior Court hired a computer expert to search Ms. Carter's many file folders and sub folders. One full-time Court Reporter, who understands Ms. Carter's theory, was used to read Ms. Carter's notes. Ms. Runyon worked on the project every day, but not on a full time basis. Ten Court Reporters took transcript volumes home on a voluntary basis to proof read and 1 Court Reporter was used to prepare the Master Index and print out the volumes.

3:34 p.m. The Court thanks Ms. Runyon for all of her hard work. The Court understands that this was not Ms. Runyon's responsibility, but that Ms. Runyon took on this responsibility and the Court appreciates all of her efforts.

3:35 p.m. The Court asks Ms. Carter if she understands all of the extraordinary efforts Superior Court has had to make to finish this record, the number of people needed because of Ms. Carter's failure to perform her duty?

Ms. Carter says she understands.

3:36 p.m. The Court tells Ms. Carter that in the future she must notify her supervisor immediately if she has any kind of problem, professional or personal that prevents her from completing her transcripts, and that the Court does not have enough resources if other Court Reporters did what she did. The Court admonishes Ms. Carter that if this ever happens again, the consequences will be severe because the parties and the public can't wait for these trial transcripts. The Court asks Ms. Carter what efforts she has taken to ensure this will never happen again.

Ms. Carter says she has purchased new software and a new computer.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 17, 2006 (Continued)

3:37 p.m. Ms. Jones addresses the court on Ms. Carter's behalf. Ms. Jones wants the Court to know that Ms. Carter has been spending 12 - 14 hours a day working on this record and that Ms. Carter is in a much clearer place now.

3:38 p.m. The Court directs that the Order to Show Cause be discharged and that any pending motions are rendered MOOT.

3:39 p.m. Court adjourns